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ADVOCATE OF PEACE.

NOVEMBER, 1855.

A REMEDY FOR WAR:

OR STIPULATED ARBITRATION BRIEFLY CONSIDERED AS A SUBSTITUTE
FOR THE SWORD.

The war-system is now upheld only as a matter of supposed necessity for the settlement of disputes between nations, for the redress of their wrongs, and the security of their respective rights and interests. These objects must be attained in some way; and the chief question is, whether better means than the sword cannot be devised for securing them. Nations will of course retain their war-system until it is actually superseded by preferable methods of international justice, and this demand would be fairly met by substitutes for war, that should accomplish any one of its legitimate ends, far more effectually than the sword ever did or ever can. Here is the substance of our plan in a few words—*war superseded by better means of international justice and safety*. We propose in its place a rational, peaceful, christian process of justice between nations analogous, to what every civilized society has provided, not only for individuals, but for all minor communities. Such is our principle; and we contend that it may be applied to nations as well as to individuals, with reasonable prospects of success. There are in the nature of the case no insuperable obstacles to such an application. Nations, regarded by all writers on international law as moral persons are confessedly under the same general obligations to each other as individuals in society; and we simply ask the former to settle their disputes in essentially the same way that the latter do theirs. How then do individuals adjust their difficulties? Always in one of two ways—either by amicable argument between themselves, or by reference to a third party as umpire. It is perfectly clear that they must either decide the matter themselves or let somebody else decide it for them. There is no other way possible for individuals or communities; and hence, if nations cannot or will not adjust their own difficulties, they must of necessity resort to some form of reference as the only possible mode of adjustment left them.

Here is no new idea, but one as old as government or society itself. Common sense, the world over, has ever decided, that no man should be allowed

to judge in his own case; and this principle is just as applicable to communities as to individuals. The former should never be permitted any more than the latter, to act as accuser and witness, judge and jury in their own dispute, but should be compelled in the last resort to abide the decision of others acting as umpires. This principle underlies and pervades every process of justice in our courts of law. Every trial there is a reference; and no litigant is allowed to decide in his own case, but must submit to the judgment of impartial peers. Ought not governments to adjust their difficulties in the same way? Shall they in their intercourse be indulged in principles of action that would in individuals outrage common sense, trample under foot every idea of justice, and subvert the very foundations of society?

We ask nations then, merely to adopt for themselves this simple elementary principle of justice, with such modifications in the mode of applying it as their circumstances may require. It would be far better if they would settle every dispute by themselves; but, if they cannot, then let them submit the points on issue to arbiters. We urge them to make this their established method of adjustment, and to provide for it, as they do for reciprocity in trade, or a mutual surrender of fugitives from justice, in their treaties by express agreement in advance. We would fain have them *stipulate* for it; and hence we call it Stipulated Arbitration. We propose that they incorporate in every treaty—unless they make one solely for this purpose—a clause binding the parties to settle whatever disputes may ever arise between them, by reference to umpires mutually chosen. The precise mode of doing this we leave them to determine on each case, and merely insist that they agree before hand to have all their difficulties adjusted in the last resort, by some form of arbitration, to abide by the decision of their referees, and ask, whenever dissatisfied with the award, only a new hearing, or a different reference.

Now, what objection can there be to such an expedient? It relinquishes no right; it neither sacrifices nor endangers any interest; it contradicts no important principle in morals or politics; it requires no great or essential change in public opinion, but is well adapted to the present state of the world, consistent alike with the precepts of Christianity, and the dictates of sound policy, it is level to the comprehension of all, and commands itself strongly to their good sense as safe and just, as clearly feasible, and likely to prove successful.

Nor would such an experiment be entirely novel; for the principle has for ages been occasionally tried with the best results. "When sovereigns," says Vattel, a high authority on international law, "cannot agree, they sometimes trust the decision of their disputes to arbitrators. This method is very reasonable, and very conformable to the law of nature." He quotes a variety of examples, but dwells especially on that of Switzerland, and says—"the Swiss have had the precaution in all their alliances among themselves, and ever in those they have contracted with the neighboring powers, *to agree before hand on the manner in which their disputes were to be submitted*

to arbitrators, in case they could not themselves adjust them in an amicable way. This wise precaution has not a little contributed to maintain the Helvetic Republic in that flourishing state which secures its liberty, and renders it respectable throughout Europe."

(Occasional arbitration has ever been a part of our foreign policy. A question of boundary between us and Great Britain, we united in referring to the Emperor of Russia, in 1822, a similar one between the same parties to the King of the Netherlands in 1827, and matters in controversy with Mexico to the King of Prussia in 1838, with success in each case to the extent of preventing an appeal to arms. Such has lately been the growing usage of civilized nations; it has come at length to be very generally recognised as part of their diplomacy; and now we merely ask that this principle be henceforth made by treaty stipulation, the ordinary and permanent method of settling all such disputes as cannot be satisfactorily adjusted by negotiation.

For some measure like this the Fathers of our Republic expressed a strong desire. "Will nations," asked JEFFERSON, "never devise a more rational umpire for their differences than force? Wonderful has been the progress of human improvement in other respects; let us hope that the law of nations will in time influence proceedings of nations, and that we shall at length be sensible that war is an instrument entirely inefficient towards redressing wrongs, and generally multiplies instead of indemnifying losses." FRANKLIN wrote a great deal in the same strain. "All wars," said he, "are follies. When will mankind be convinced of this, and agree to settle their difficulties by *arbitration*? We daily make great improvements in natural philosophy; there is one I wish to see in moral—the discovery of a plan that would induce and oblige nations to settle their disputes without first cutting one another's throats."

This substitute for war has begun at length to gain the ear of statesmen in both hemispheres. So long ago as 1849, Richard Cobden, in response to more than 200,000 petitioners, moved in the House of Commons a resolution in favor of this measure, and obtained for it no less than eighty votes, the largest number ever given by that body at the outset for any new measure of like importance. In our own country we have been still more successful. Some half dozen of our State Legislatures, all before whom the subject was properly brought, passed during their sessions in 1852-53, resolutions, with entire unanimity in every case except one, decidedly in favor of stipulated arbitration as a substitute for war. It has, also, met with like favor from our national rulers. In 1851, the Senate's Committee on Foreign Relations unanimously recommended the resolve, "that it would be proper and desirable for the government of these United States, whenever practicable, to secure, in its treaties with other nations, a provision for referring to the decision of umpires all future misunderstandings that cannot be satisfactorily adjusted by amicable negotiations." In 1853, Judge Underwood of Kentucky, made on behalf of the same committee, an able and elaborate report

strongly in favor of the same measure. President FILLMORE, and his Secretary of State, EDWARD EVERETT, declared their own readiness, after a careful examination of the subject, to insert such a provision in the treaty then pending between us and Great Britain; and that treaty, when completed by their successors in office, contained an express stipulation by arbitration in the last resort for the adjustment of all such misunderstandings *under the treaty* as could not be satisfactorily arranged between the parties themselves, and thus fell short of our wishes only in not extending this provision to *all* disputes of *every kind* that may ever arise between the two governments. We had entered not long before, into a treaty with England for adjusting in the same way a large number of minor disputes; and the same principle has been, though in a bungling way, incorporated on our two last treaties with Mexico.

Thus is this great reform already started; and what we now need is to carry it forward until it shall become the permanent policy of all Christendom. This will of course take a long time; but it *can* be done; and we, for many reasons, on the nation, above all others, to lead the van of such a movement. The way is surely preparing for it, and even now public opinion, if not ripe enough to demand it, is quite ready to sanction and sustain it. We could, if we should attempt it in earnest bring England and France into the measure ere long; and if these three leading powers should by such a simple and easy precaution foreclose the chief dangers of war between themselves, their example so rich in benign results, would soon be followed by minor States, and thus bring at length all civilized nations into a league of perpetual peace.

How glorious a future would such a consummation open on the world! Should the scheme utterly fail, it could do no possible harm; but should it succeed, how many evils would it prevent, how many blessings confer! What myriads of treasure, what rivers of blood, what numberless forms of crime and woe would it save! It would give the world a jubilee it has never known. Millions of warriors, no longer drones fed from the public crib, might return to the art of peace and contribute their share to the common weal. Population would swarm anew; agriculture would spread its golden harvest over hill and vale; the various mechanic arts would ply afresh their thousand forms of improved machinery; commerce without fear would unfurl its canvas on every sea, and barter its commodities in every port; learning, and philanthropy, and religion would pass without obstruction from land to land, and cover the globe with their blessings. It is hardly possible to conceive what wonders such a policy would be worth for the whole human race so long cursed with the evils of war.

To such a measure, then, what objection can there be? Would you deem it inconsistent with national dignity? It is honorable for individuals and minor communities to refer their disputes, and why not for nations? Perhaps you think "governments will not thus *pledge* themselves *in advance*?" A plea quite untenable, because every treaty binds them in advance, and,

if we discard such pledges, we must abjure all treaties; but, if they may pledge themselves on any point, they may equally well on this; and such a pledge in advance is the very thing needed to prevent a sudden rush to arms under the blind impulses of passion. Do you deem "arbitration uncertain in its results?" It cannot be half as uncertain as the sword; nor is there likely ever to occur any national dispute which it would not be far more safe to submit to arbitration than to the hazards of war. Do you fear that "the parties would violate their engagement?" True, they might but no such fears deter us from other treaties, and why should they from this? A multitude of the most powerful motives would conspire to keep them faithful to a stipulation so prominently important. Public opinion, already the virtual ruler of all civilized nations, and fast increasing in its power, would stand sentinel and security for the due observance of such a treaty. "There is," said WEBSTER, "something on earth greater than arbitrary or despotic power. The lightning has its power, and the whirlwind has its power, and the earthquake has its power; but there is something among men more capable of shaking despotic thrones than lightning, whirlwind or earthquake; and that is the excited and aroused indignation of the whole civilized world." Do you apprehend that "we being republicans while other nations are nearly all monarchists, should have no fair or equal chance of justice?" Questions touching the peculiar forms of government in different countries, the sole hinge of this objection, never have been, nor ever will be, submitted to arbitration by any people, but only such disputes as men under any and every form of government may be equally qualified to decide aright. Nor is there any need of selecting rulers as umpires, instead of such men as a Mansfield, or a Marshall, a Peel, or a Webster; men in whose qualifications for the service the whole world would confide. Each party would unite of course in choosing the umpire; and this alone would be ample security for the rights of both.

We see then, no serious objection to such a measure, but a host of the strongest arguments in its favor; and we would fain urge every one to use his best endeavors for securing it as soon as possible, and especially to unite in petitioning our Congress, as they will move on the subject only in compliance with the wishes of the people, to take such action as they may deem best to procure henceforth, in our treaties with other nations a provision for settling all difficulties in the last resort, by reference to umpires mutually chosen. and thereby open the way in time for a safe gradual abandonment of the whole war-system by the adoption of a substitute that shall more effectually secure all its legitimate ends, and thus supersede its necessity entirely and forever